

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,

Plaintiff

v.

WAL-MART STORES, INC.; KINDERHOOK INDUSTRIES II, L.P.;  
KINDERHOOK INDUSTRIES, L.L.C.; KINDERHOOK CAPITAL  
FUND II, L.P.; CRESTWOOD HOLDINGS, INC.; BERGAN, L.L.C.;  
JOHN ELMBURG; ROBERT ELMBURG; ERIC ELMBURG; ROCKY  
FLICK; HOME DEPOT U.S.A., INC. AND DOES 1 THROUGH 20,  
INCLUSIVE,

Defendant

Civil Action No. 12CV3057-L-WVG

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

**Kinderhook Capital Fund II, L.P., c/o. Registered Agent: Corporation Service Company,  
2711 Centerville Road, Suite 400, Wilmington, DE 19808**

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David L. Shain  
1050 South Kimball Road  
Ventura, CA 93004

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

W. Samuel Hamrick, Jr.

CLERK OF COURT

Date: 12/26/12

S/ C. Lopez

Signature of Clerk or Deputy Clerk



## RETURN OF SERVICE

### UNITED STATES DISTRICT COURT Southern District of California

Case Number: 12CV3057LWVG

Plaintiff/Petitioner:

**MICHAEL MONTGOMERY**

vs.

Defendant/Respondent:

**WAL-MART STORES, INC., et al.**

Received by HPS Process Service & Investigations, Inc. to be served on **Kinderhook Capital Fund II, L.P., c/o Registered Agent: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808**. I, ADAM GOLDEN, do hereby affirm that on the 1 day of FEB, 2013 at 2:34p.m., executed service by delivering a true copy of the Summons in a Civil Action; Complaint for: 1) Strict Liability, 2) Negligence, 3) Breach of Warranty, 4) Misrepresentation, 5) Violations of the Consumer Product Safety Act, 6) Negligence Pre Se, 7) Piercing the Corporate Veil and Joint Enterprise Liability; 8) Piercing the Corporate Veil; 9) Fraudulent Conveyance, 11) Strict Liability Design Defect, 12) Duty to Warn; Civil Cover Sheet; and Notice of Electronic Filing in accordance with state statutes in the manner marked below:

☒ **REGISTERED AGENT SERVICE:** By serving SUE RHEA  
as AUTHORIZED TO ACCEPT for the above-named entity.

☐ **RECORDS CUSTODIAN SERVICE:** By serving \_\_\_\_\_  
as \_\_\_\_\_ for the above-named entity.

☐ **CORPORATE SERVICE:** By serving \_\_\_\_\_  
as \_\_\_\_\_ for the above-named entity.

☐ **OTHER SERVICE:** As described in the Comments below.

☐ **NON SERVICE:** For the reason detailed in the Comments below.

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made.



PROCESS SERVER # \_\_\_\_\_  
Appointed in accordance with State Statutes

**HPS Process Service & Investigations, Inc.**  
**www.hpsprocess.com**  
**1669 Jefferson**  
**Kansas City, MO 64108**  
**(800) 796-9559**  
Our Job Serial Number: 2013002684